

## REMARKS

Reconsideration and allowance of the above-referenced application are respectfully requested. Claims 70-85 are pending in the application. Claims 70-85 are rejected.

Claims 70-85 stand rejected under 35 U.S.C. § 112, 2<sup>nd</sup> paragraph as being indefinite. Specifically, the Examiner states that claims do not perform a prescription creation, i.e., no prescription is output. This rejection is respectfully traversed.

Claim 70 recites, *inter alia*, “drug formulary information identifying at least one of multiple drugs as a patient’s drug formulary preference to enable selection by the prescriber of a benefit plan recommended drug; by which the patient’s drug formulary preference may be presented to the prescriber prior to completion of the prescription.” The prescription creation software system displays the patient’s drug formulary preference to the prescriber prior to completion of the prescription. The display of this information is created.

Claim 76 recites, *inter alia*, “the drug contraindication review routine accessing contraindication information regarding the prescribed drug and generating an alert regarding a relevant such contraindication.” The prescription creation software generates an alert when there is a contraindication regarding the prescribed drug.

Claim 79 recites, *inter alia*, “... the system being operative to display an electronically generated prescription history of a patient’s prior prescribed treatments.” The computer-implemented patient prescription history record display system displays an electronically generated prescription history of a patient’s prior prescribed treatments.

Claim 84 recites, inter alia, “a patient data access control software system implemented on a computer for screening users attempting to access a patient history data.” The software system controls access to a patient’s data.

Claim 85 recites, inter alia, “a prescription output screen device to output a completed prescription; wherein the completed prescription includes the patient condition and identification and quantification data regarding a drug prescribed by the prescriber user for treatment of the patient condition, the patient condition and drug data being captured into the prescription by the data capture devices.” The prescription creation software system outputs a completed prescription via a prescription output screen device.

As a result, each of the independent claims recites a definite function as described above. Moreover, the purported ambiguous language of “for implementation on a computer” has been replaced with the definitive language “implemented on a computer” as suggested by the Examiner. Therefore, this rejection has been overcome.

Claims 79-83 stand rejected under 35 U.S.C. 102(e) as being anticipated by Goldman et al. (U.S. Patent Number 5,542,420). This rejection is respectfully traversed.

Goldman et al. does not disclose “A computer-implemented patient history record display system, … the system being operative to display an electronically generated prescription history of a patient’s prior prescribed treatments at multiple record-independent facilities, the prescription history record comprising a patient identifier, a prescribed drug, at least one drug quantifier for the prescribed drug and a treatment date for each treatment …” as recited in claim 79. (Emphasis added). Rather, Goldman et al. discloses a health care system for specifying edibles to individual subjects. Goldman et al. is concerned with providing a personalized prescription of

edibles based on an individual's nutritional needs. Although, Goldman et al. gathers information related to an individual, Goldman et al. does not display the individual's prescription history record with the same information as claimed. Specifically, Goldman et al. does not disclose displaying a prescription history record comprising a patient identifier, a prescribed drug, at least one drug quantifier for the prescribed drug and a treatment date for each treatment. Hence, Goldman et al. does not display each and every element in claim 79.

For at least these reasons, claim 79, as well as dependent claims 80-83 are patentable over Goldman et al.

Claim 84 presently stands rejected under 35 U.S.C. § 102(e) as being anticipated by Faden et al. "Privacy and Security of Personal Information in a New Health Care System" JAMA, November 1993. Applicant respectfully traverses this rejection.

Faden et al. does not disclose "A patient data access control software system for implemented on a computer for screening users attempting to access a patient history data whereby, only pre-authorized users can access patient data, wherein access control is maintained by reference to record-access specifications provided in a security profile in a pre-authorization file the pre-authorization file being used to control access to the patient's data and wherein the record-access specifications determining which parties can access what data during what period of time" as recited in claim 84. Specifically, Faden et al. does not disclose "access control is maintained by reference to record-access specifications provided in a security profile in a pre-authorization file." (Emphasis added). Faden et al. is directed to privacy and security goals for the collection, storage and use of health care information for a new health care system.

Moreover, Faden et al. does not disclose "record-access specifications determining which parties can access what data during what period of time" as recited in claim 84. Rather, Faden et al. only states that access is limited for an agreed upon time between a health care professional and a patient. Specifically, Faden et al. does not disclose the use of record-access specifications to control access to patient data. Hence, Faden et al. fails to disclose each and every element as claimed in claim 84.

Moreover, the Examiner fails to specifically cite where each element of claim 84 is disclosed in the article.

For at least these reasons, claim 84 is patentable over Faden et al.

Claim 84 presently stands rejected under 35 U.S.C. § 103(a) as being obvious over Ballantyne et al. (U.S. Patent No. 5,867,821) in view of Faden et al. "Privacy and Security of Personal Information in a New Health Care System" JAMA, November 1993. Applicant respectfully traverses this rejection.

As argued above, Faden et al. does not disclose or suggest "record-access specifications determining which parties can access what data during what period of time" as recited in claim 84. Rather, Faden et al. only states that access is limited to for an agreed upon time between a health care professional and a patient. Specifically, Faden et al. does not disclose or suggest the use of record-access specifications to control access to patient data.

Moreover, Ballantyne et al. fail to disclose or suggest a patient data access control software system which controls access to what data and what period of time such access right may be effective. Controlling the access with respect to time provides an additional security measure that Ballantyne et al. does not address.

For at least these reasons, claim 84 is patentable over the cited art.

Claims 70, 76 and 77 presently stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Fox, "RxWriter", Journal of Family Practice, v. 37, n.3. p. 296(2), September 1993. Applicant respectfully traverses this rejection.

Fox does not disclose or suggest a "prescription creation system implemented providing:

a) a prescription creation screen display, permitting prescriber-operable data capture including:  
... drug formulary information identifying at least one of multiple drugs as a patient's drug formulary preferences to enable selection by the prescriber of a benefit plan recommended drug" as recited in claim 70. (Emphasis added). Fox is directed to a critique of a prescription writing software entitled "RxWriter". Fox does not disclose or suggest the use benefit plan recommended drug since RxWriter does not disclose or suggest incorporating information from health insurance companies.

Similarly, Fox does not disclose or suggest a "prescription creation system providing: ... comprising a drug contraindication review routine automatically activatable from the prescription creation system prior to dispatch of the completed prescription for fulfillment, the drug contraindication review routine accessing contraindication information regarding the prescribed drug and generating an alert regarding a relevant such contraindication" as recited in claim 76. Specifically, Fox does not disclose or suggest generating an alert for a drug contraindication.

Furthermore, as admitted by the Examiner, RxWriter does not include a library of drugs and drug formulary information (generic drugs) to be displayed. However, the Examiner asserts that since Fox discloses these features that it would have been obvious to one having ordinary

skill in the art at the time of the invention to implement these features. The applicant traverses this assertion because Fox is a non-enabling reference. Fox is a critique of the RxWriter software program and lists the favorable features of the program as well as features that the author believes are desirable but are not implemented. Thus, Fox is simply disclosing desires rather than teaching the actual functions. Hence, Fox is a non-enabling reference which would not teach one of ordinary skill in the art at the time of the invention to include displaying a library of drugs and drug formulary information in the prescription creation software system as claimed in claims 70 and 76.

At least for these reasons, claims 70 and 76, as well as dependent claim 77 are patentably distinguishable from the cited art.

In view of the above, it is believed this application is in condition for allowance, and such a Notice is respectfully solicited.

Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

**McDERMOTT, WILL & EMERY**

Date: August 24, 2000

By:

  
Thomas A. Corrado

Registration No. 42,439

600 13th Street, N.W.  
Washington, D.C. 20005-3096  
Telephone: 202-756-8000  
Facsimile: 202-756-8087

WDC99 183710-1.048850.0036